

HOUSE BILL REPORT

HB 2494

As Reported by House Committee On: Local Government & Housing

Title: An act relating to the purchase or construction of public facilities in one hundred year floodplains.

Brief Description: Concerning the purchase or construction of public facilities in one hundred year floodplains.

Sponsors: Representatives White, Springer, Goodman, Chase, Dickerson, Carlyle, Williams, Miloscia, Nelson, Dunshee and Darneille.

Brief History:

Committee Activity:

Local Government & Housing: 1/13/10, 1/25/10 [DPS].

Brief Summary of Substitute Bill

- Establishes new procedural requirements that must be met by western Washington county and city legislative authorities choosing to purchase or construct certain public facilities in a 100-year floodplain.

HOUSE COMMITTEE ON LOCAL GOVERNMENT & HOUSING

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Simpson, Chair; Nelson, Vice Chair; Angel, Ranking Minority Member; Fagan, Miloscia, Short, Springer, Uptegrove, White and Williams.

Staff: Ethan Moreno (786-7386).

Background:

Growth Management Act.

The Growth Management Act (GMA) is the comprehensive land use planning framework for county and city governments in Washington. Enacted in 1990 and 1991, the GMA establishes numerous planning requirements for counties and cities obligated by mandate or

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choice to fully plan under the GMA (planning jurisdictions) and a reduced number of directives for all other counties and cities.

The GMA includes numerous requirements relating to the use or development of land in urban and rural areas. Among other requirements, counties that fully plan under the GMA (planning counties) must designate urban growth areas (UGAs) or areas within which urban growth must be encouraged and outside of which growth can occur only if it is not urban in nature. Planning counties and the cities within these counties must include within their UGAs areas and densities that are sufficient to permit the urban growth projected to occur in the county or city for the succeeding 20-year period.

The GMA defines various terms that are relevant to its implementation. For example, "public facilities" is defined in the GMA to include streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreational facilities, and schools.

Recent Legislative Action.

In 2009 the Legislature adopted Engrossed House Bill 1967 (enacted as ch. 342, Laws of 2009). This legislation established limited prohibitions on the expansions of UGAs into the 100-year floodplain of any western Washington river or river segment meeting specified water flow criteria.

Summary of Substitute Bill:

The purchase or construction of county or city owned public facilities in a 100-year floodplain may only be authorized through the following actions by the applicable county or city legislative authority:

- the adoption of findings declaring the need and reasoning for purchasing or constructing the facility in a 100-year floodplain; and
- an affirmative vote authorizing the purchase or construction activity.

The required legislative authority actions must be completed only by counties and cities located in western Washington and are not required for:

- roads, streets, and other transportation facilities;
- public safety facilities;
- storm water facilities;
- flood control facilities; or
- underground conveyances.

Substitute Bill Compared to Original Bill:

The substitute bill makes the following changes to the original bill:

- deletes provisions of the underlying bill generally prohibiting the purchase or construction of public facilities in a 100-year floodplain located outside of a UGA;
 - specifies that the purchase or construction of county or city owned public facilities in a 100-year floodplain may only be authorized through certain actions of the applicable county or city legislative authority;
 - limits the applicability of the bill to jurisdictions in western Washington; and
 - exempts the following public facilities from requirements of the bill: (1) roads, streets, and other transportation facilities; (2) public safety facilities; (3) storm water facilities; (4) flood control facilities; and (5) underground conveyances.
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Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill is intended to provide guidance and direction to local governments in the placement of public facilities in floodplains. Floodplain factors have not always been considered by local governments, and relocation expenses, when necessary, can be significant. Attempts to refine the bill and develop appropriate exemptions are ongoing. This bill is intended to target city and county facilities, not state government facilities.

(With concerns) Cities would like to work with the sponsor to narrow the bill's language. One narrowing approach would be to limit the bill's provisions to buildings that house people. The bill needs additional work, and its current structure creates questions about how it would be implemented. The Department of Transportation is focused on transportation improvements and would like to participate in efforts to refine the bill. The concept of avoiding unnecessary building in the floodplain is supported, but efforts to determine allowable uses and categorizations can be difficult for local governments. The bill should be amended to allow for an exemption for sanitary sewer systems.

(Opposed) None.

Persons Testifying: (In support) Representative White, prime sponsor.

(With concerns) Dave Williams, Association of Washington Cities; Kyle McKeon, Washington State Department of Transportation; and Tom Clingman, Department of Ecology.

Persons Signed In To Testify But Not Testifying: None.